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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,506	09/19/2003	Peter K. DeGabriele	087522-452-465	9180
28104	7590	12/21/2005	EXAMINER	
JONES DAY 77 WEST WACKER CHICAGO, IL 60601-1692			AYRES, TIMOTHY MICHAEL	
			ART UNIT	PAPER NUMBER

3637

DATE MAILED: 12/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/666,506

Applicant(s)

DEGABRIELE ET AL.

Examiner

Timothy M. Ayres

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) 19-32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

### **DETAILED ACTION**

This is a first office action on the merits of application SN 10/666,506.

#### ***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-18, drawn to a workstation, classified in class 312, subclass 223.3.
  - II. Claims 19-32, drawn to a grommet, classified in class 16, subclass 2.1.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the grommet can be of a different configuration. The subcombination has separate utility such as a grommet or heat register for ventilating or to allow wires to travel through a wall.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
4. During a telephone conversation with Ronald Sandler on 11/16/05 a provisional election was made without traverse to prosecute the invention of I, claims 1-18.

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Affirmation of this election must be made by applicant in replying to this Office action.

Claim 19-32 are withdrawn from further consideration by the examiner, 37

CFR 1.142(b), as being drawn to a non-elected invention.

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

### ***Drawings***

6. Color photographs and color drawings are not accepted unless a petition filed under 37 CFR 1.84(a)(2) is granted. Any such petition must be accompanied by the appropriate fee set forth in 37 CFR 1.17(h), three sets of color drawings or color photographs, as appropriate, and, unless already present, an amendment to include the following language as the first paragraph of the brief description of the drawings section of the specification:

The patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the Office upon request and payment of the necessary fee.

Color photographs will be accepted if the conditions for accepting color drawings and black and white photographs have been satisfied. See 37 CFR 1.84(b)(2).

7. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the lock of claim 18

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must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

8. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

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9. Claim 18 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The lock is not shown in the drawing or discussed in the specification to ascertain how or where it is connected to the door.

10. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

11. Claim 1,2, 6, 12, 17 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

12. Regarding claims 1, 6, and 12, it is unclear if "a central processing unit" is the same one throughout the claims. It is also unclear if "a central processing unit" is a limitation that is positively recited in lines 9 and 12 of claim 1 or is just part of the functional language "for receiving a central processing unit" recited in line 7 of claim 1, which implies that the interior space is capable of receiving a central processing unit. It is unclear whether the combination of workstation and central processing unit is being claimed or just the workstation.

13. Regarding claims 2, 12, and 17, it is confusing with two different rear walls called "a rear wall" and with two different openings called "an opening".

***Claim Rejections - 35 USC § 103***

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

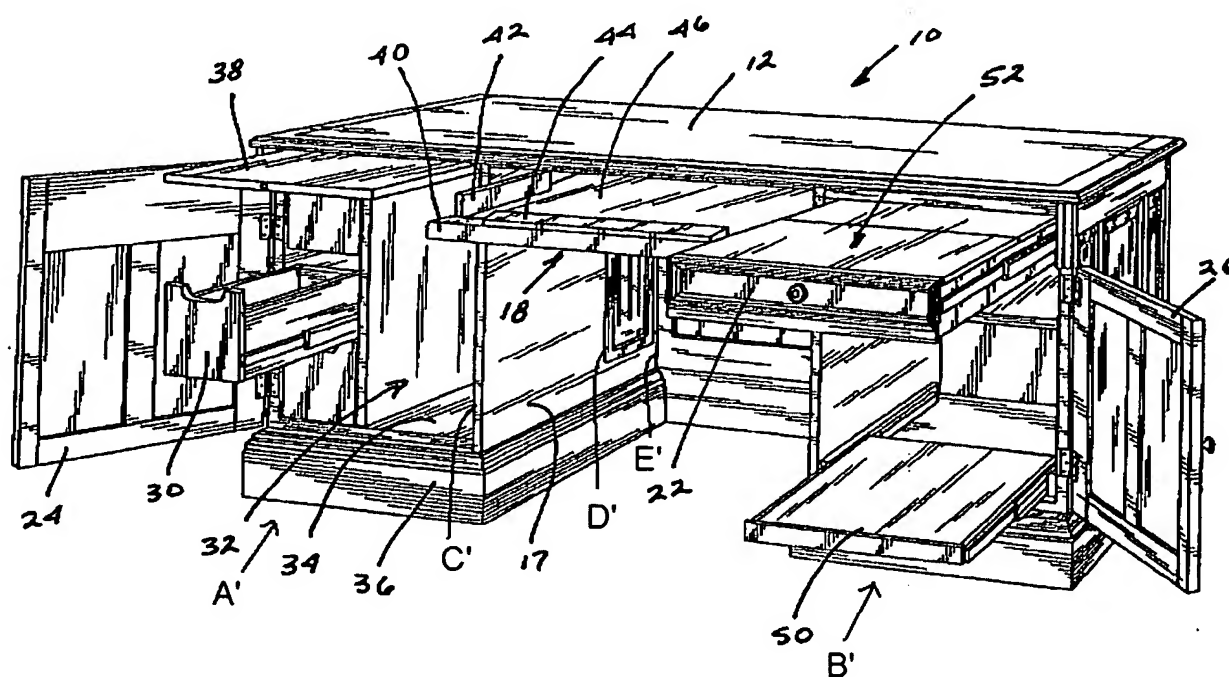
15. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

16. Claims 1-5, 7, 8, 10, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Publication 2003/0076014 to Kelley in view of US Patent 5,272,988 to Kelley. Kelly '014 discloses a workstation (10) having a cabinet (A') that is capable of housing a central processing unit in the interior space (32). The interior space (32) of the cabinet (A') is created by a front door (24), an inside side wall (17), an outside sidewall (14), a bottom wall (34), and a rear wall (28). An elevated work surface (12) capable of supporting a computer screen and is above and supported by the cabinet (A') and a pedestal (B'). The inside sidewall (17) of the cabinet has a front edge (C') and rear edge (E') with the rear edge having a recess covered by a panel (D'), which when removed would allow access to the interior space (32) of the cabinet (A') best seen and understood from marked up figure 4 below. The rear wall (28) of the

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cabinet (A') is the rear wall (28) of the workstation as best seen in figure 2. The sidewall (14) of the workstation (10) is the outside sidewall (14) of the cabinet (A'). The bottom wall (34) of the cabinet (A') extends from the front of the interior space (32) to the rear wall (28) of the cabinet. A keyboard platform (18) is mounted to the bottom of the elevated surface (12).



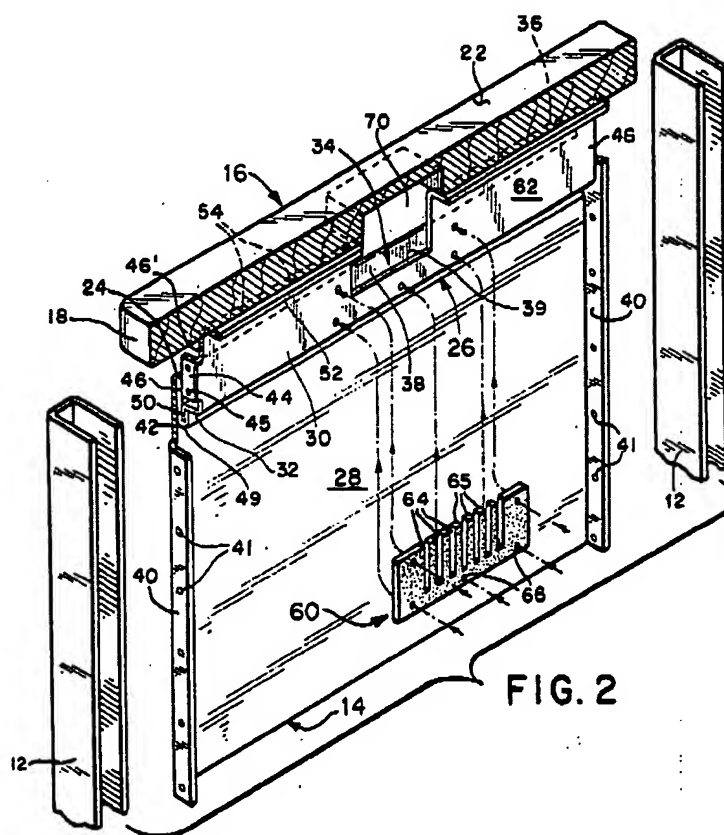
Kelley '014 Figure 4

17. Kelley '014 does not disclose expressly the rear wall of the cabinet having an opening covered by a removable grommet with a plurality of slots and curved openings. Kelley '988 discloses a workstation (10) with an opening (38) in the rear wall (14, 30). A grommet (60) covers the opening (38) and allows access for cables (25) to the interior space of the workstation (10). The grommet (60) includes a plurality of curved openings



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(66) and slotted openings (64). At the time of the invention it would have been obvious for a person of ordinary skill to modify the rear wall of cabinet and workstation of Kelley '014 by adding an opening and the grommet as taught by Kelley '988 so that an access opening is provided in the rear that is less noticeable and more attractive than the usual method in the top work surface (Kelley '988, Col. 1, lines 35-41).

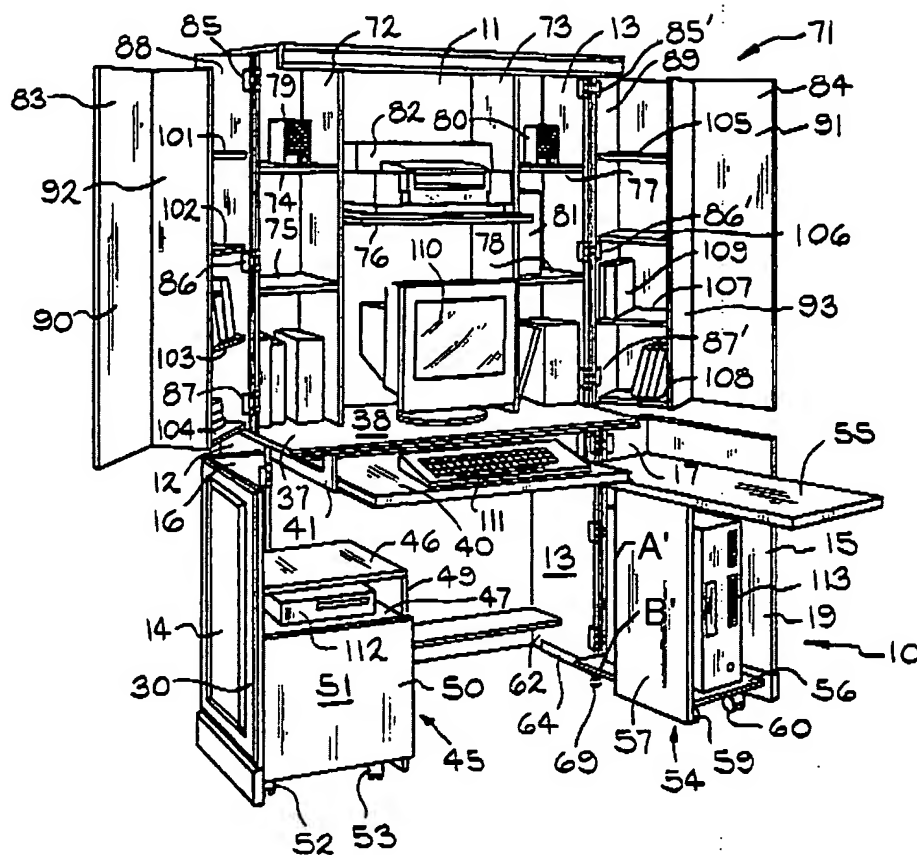


Kelley '988 Figure 2

18. Claims 6, 12, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Publication 2003/0076014 to Kelley in view of US Patent 5,272,988 to Kelley as applied to claim 1 above, and further in view of US Patent 5,558,418 to

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Lambright. Kelley '014 modified by Kelley '988 discloses every element as claimed and discussed above except an opening formed by the bottom wall and the recessed rear edge of the inside sidewall. Lambright '418 discloses a workstation (10) including a cabinet (54) with an interior space for a central processing unit (113). The inside sidewall (57) and the bottom wall (56) of the cabinet (54) have edges (A', B') as seen in marked up figure 11 below that define an opening allowing access to the rear of the central processing unit (113). At the time of the invention it would have been obvious for a person of ordinary skill in the art to modify the workstation of Kelley '014 in view of Kelley '988 by having the opening created by the recess extend to the bottom wall as taught in Lambright so that the opening is bigger and closer to the floor allowing for easier reach of cables to the outlets.

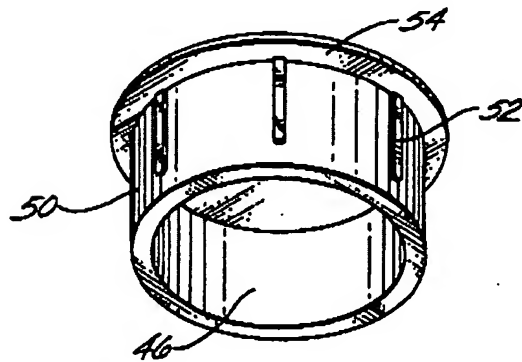


Lambright '418 Figure 11

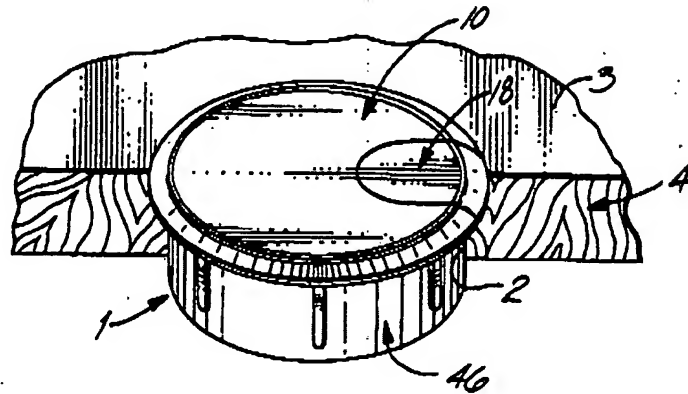
19. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Publication 2003/0076014 to Kelley in view of US Patent 5,272,988 to Kelley as applied to claim 1 above, and further in view of US Patent 5,167,047 to Plumley. Kelley '014 modified by Kelley '988 discloses every element as claimed and discussed above except a grommet frame mounted to the rear wall around the rear wall opening. Plumley '047 discloses several shapes and sizes of grommets (1) which all include a grommet frame (46) as best seen in figure 7 and 10 below. At the time of the invention it would have been obvious for a person of ordinary skill in the art to add a grommet frame as

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taught by Plumley to the workstation of Kelley '014 in view of Kelley '988 so that the sharp edges of an opening are protected (Plumley '047, Col. 1, lines 25-32)



Plumley '047 Figure 7



Plumley '047 Figure 10

20. Claims 14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Publication 2003/0076014 to Kelley in view of US Patent 5,272,988 to Kelley and US Patent 5,558,418 to Lambright as applied to claims 12 and 13 above, and further in view of US Patent 5,167,047 to Plumley. Kelley '014 modified by Kelley '988 and further modified by Lambright '418 discloses every element as claimed and discussed above except a grommet frame mounted to the rear wall around the rear wall opening and the door including a lock. Plumley '047 discloses several shapes and sizes of grommets (1) which all include a grommet frame (46) as best seen in figure 7 and 10 below. At the time of the invention it would have been obvious for a person of ordinary skill in the art to add a grommet frame as taught by Plumley to the workstation of Kelley '014 in view of Kelley '988 so that the sharp edges of an opening are protected (Plumley '047, Col. 1, lines 25-32). In regards to claim 18, the office take official notice that it is

well known to put locks on doors to secure items inside and therefore it would have been obvious for a person of ordinary skill in the art to add a lock to the door of Kelley '014 in view of Kelley '988, Lambright '418, and Plumley to secure items inside.

### ***Conclusion***

21. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patent 6,133,528 to Henriott discloses a grommet with slots and a curved opening. US Patent 5,741,053 to Nielsen discloses a workstation with a cabinet and an opening on the interior sidewall and a pivotal back panel. US Patent 5,690,403 to Ellison discloses a removable grommet with a frame to be mounted in a workstation. US Patent 6,419,330 to Lechman discloses a workstation with a removable back panel. US Patent 5,682,016 to James discloses a filter cage that has slots and curved openings on the peripheral edges to receive cables. US Patent 6,070,956 to Yates discloses a workstation with a computer cabinet that has an opening in the rear panel for cables. US Patent 6,170,926 to Roberts discloses a workstation including a cabinet with an opening on the interior sidewall covered by mesh. US Design Patent 405,625 to Zaidman discloses a workstation with a pedestal and a computer cabinet. US Patent 4,688,491 to Herrera discloses a removable grommet with a slot and a frame to be received in a workstation. US Patent 3,783,175 to Timmons discloses a workstation with a grommet and frame in the work surface. US Patent 6,241,329 to Nielson discloses a workstation with openings to receive wires. Japanese Patent 2000-262,333 to Okamura discloses a workstation with a rear pivotal panel to allow access to

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the cabinet and has a recess on the panel to allow wires to travel through. German Patent 20209204 to Hornung discloses as best understood a workstation with a removable grommet (9) on the rear panel to receive cables and to allow for ventilation.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy M. Ayres whose telephone number is (571) 272-8299. The examiner can normally be reached on MON-THU 8:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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